

Name	Case No.
Affiliated Aggregates	RF272-98169
American Safety Service, Inc	RF272-98198
Blachowske Truck Line, Inc	RG272-330
Brisbane Elementary School	RF272-95933
Central Sand & Gravel	RF272-98241
Chaseburg Farmers Union Co-op	RG272-344
Choi Aviation Inc	RF272-97993
County Concrete Co	RF272-98254
Davidson Supply Co	RF272-98161
F. Randandt & Sons	RF272-98176
Fairchild-Florida Construction Co	RF272-98257
Farmers Union Oil	RG272-292
Farmers Union Oil Co	RG272-317
Francis J. Palo, Inc	RF272-98206
Frank Silha & Sons Excavating	RF272-98246
H.B. Rowe & Co., Inc	RF272-98251
Herlihy Mid-Continent Co	RF272-98248
Highways, Inc	RF272-98173
J.D. Eckman, Inc	RF272-98205
J.F. Allen Co	RF272-98258
John J. Mudge	VFA-0158
L.A.B. Flying Services Inc	RF272-97987
Lang Bros., Inc	RF272-98244
Louis & Armando Bolli	RF300-14605
McKay Contractors, Inc	RF272-98247
Miller Cable Co	RF272-98172
Modale Cooperative Assn.	RG272-354
Northern Pipeline Construction Co	RF272-98252
P.J. Construction Co	RF272-98240
P.S. & F. Construction Co	RF272-98170
Pan American Construction Co	RF272-98243
Rosebud Farmers Union Co-op	RG272-322
Ryan Air Services, Inc	RF272-97999
S.G. Hayes and Co	RF272-98253
Saint Charles County Co-op Co	RG272-587
Saudi Arabian Airlines Corp	RG272-743
Schuykill, Inc	RF272-98174
Sheboygan Sand & Gravel	RF272-98177
Spartan Express	RG272-619
Unalakleet Air Taxi	RF272-97978
V.O. Menezes & Son, Inc	RF272-98255
Valley Seeding Co, Inc	RF272-98259
Wayne W. Sell Corp	RG272-343
Wilbur's Inc	RF272-97970
Zambia Airways Corp	RF272-97947

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Issuance of Decisions and Orders; Week of August 12 Through August 16, 1996

During the week of August 12 through August 16, 1996, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585-0107, Monday through Friday, between

the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at <http://www.oha.doe.gov>.

Dated: October 7, 1996.
George B. Breznay,
Director, Office of Hearings and Appeals.

Decision List No. 985

Appeal

Greenpeace, 8/12/96, VFA-0186

The Department of Energy denied a Freedom of Information Act Appeal that was filed by Greenpeace. In its Appeal, Greenpeace sought the release of

transcripts of certain electronic mail communications. In the decision, the DOE found that the transcripts were properly withheld under Exemption 5.

Refund Application

Midwest Specialized Transportation, Inc., 8/14/96, RF272-97965

The DOE denied an Application for Refund filed on behalf of Midwest Specialized Transportation, Inc. (MST) in the crude oil refund proceeding. Prior to the filing of MST's Application, MST had applied for a refund in the Surface Transporters proceeding. After MST informed the DOE in 1987 that MST's owner-operators had purchased more than 99 percent of the fuel used in MST's surface transportation activities, and MST had itself purchased less than 250,000 gallons, the DOE found MST

ineligible for a Surface Transporters refund. In MST's 1994 Subpart V crude oil refund, the applicant claimed that it, not its owner/operators, purchased 2,298,915 gallons of refined petroleum products. In its decision, the DOE determined that because MST had now proved that it bought more than 250,000 gallons, it had been eligible for a Surface Transporters refund. Thus, the applicant's Stripper Well waiver was effective, and the DOE denied MST's Subpart V refund application. Further, the DOE could not reopen the Surface Transporters proceeding, as the proceeding closed years ago, and the applicant failed to present any adequate reason for failing to submit a timely Motion for Reconsideration in that earlier proceeding.

Dismissals

The following submissions were dismissed:

Name	Case No.
BROOKS SCANLON, INC.	RF272-97995
CITY OF RICHARDSON	RF272-95234
ROCKY FLATS FIELD OFFICE.	VSO-0105
SOUTHLAND POWER CONSTRUCTORS.	RF272-77584
TRAP ROCK INDUSTRIES, INC.	RF272-95254

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Issuance of Decisions and Orders; Week of September 4 Through September 8, 1995

During the week of September 4 through September 8, 1995, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585-0107, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of

Hearings and Appeals World Wide Web site at <http://www.oha.doe.gov>.

Dated: October 7, 1996.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision List No. 936

Appeals

James Minter, 9/6/95, VFA-0064

James Minter filed an Appeal from a determination issued by the Albuquerque Operations Office (DOE/AL) in response to a request filed under the Freedom of Information Act. The Appellant sought documents relating to an alleged assault and battery between himself and another DOE employee. In its Decision, the Office of Hearings and Appeals (OHA) rejected the Appellant's attempt to expand the scope of the appeal. The OHA concluded that there may be responsive documents that were not identified in the initial search. Accordingly, the DOE granted the Appeal and remanded the matter to DOE/AL for further action.

Klickitat Energy Partners, 9/8/95, VFA-0065

Klickitat Energy Partners filed an Appeal from a partial denial by the Bonneville Power Administration of a Freedom of Information Act Request. The DOE found that BPA failed to provide adequate descriptions of the documents that were withheld under Exemption 5, and that the justification for withholding documents was inadequate. The matter was remanded to BPA for a new determination. The DOE also found that BPA's search for responsive documents was adequate.

Personnel Security Hearing

Oak Ridge Operations Office, 9/8/95, VSO-0029

A Hearing Officer recommended that access authorization not be restored to an employee whose access was suspended due to evidence of alcohol dependence. The Hearing Officer found the employee had not shown sufficient evidence of rehabilitation to mitigate valid security concerns raised by his excessive use of alcohol.

Refund Applications

State of Montana, Et Al., 9/5/95; RK272-00147, Et Al.

During a review process for the issuance of a supplemental refund to all applicants previously granted refunds in the crude oil proceeding, the Office of Hearings and Appeals (OHA) discovered a group of possible duplicate refunds. The OHA determined that in each case the smaller refund should be rescinded.

However, the OHA did not order a direct repayment of that money. Instead each applicant's supplemental refund will be reduced by the overpayment.

Texaco Inc./Sun Enterprises, Ltd. and Anglo-American Shipping Co., 9/6/95, RF321-7581; RR321-7582

The DOE issued a Decision and Order concerning Applications for Refund submitted by Sun Enterprises, Ltd. (Sun) and Anglo-American Shipping Co. (Anglo) in the Texaco Inc. special refund proceeding. Both applicants submitted invoices indicating that they purchased, in the United States, a portion of their petroleum products from London based Texaco, Ltd. The applicants argued that U.S. Texaco Ltd. purchases should not be deemed a "first sale into U.S. commerce," and thus ineligible for a refund, because Texaco Ltd. would have most likely sold U.S. price-controlled petroleum products instead of higher priced "first sale" foreign imported oil. The DOE held that it would presume, in the absence of other information indicating that a purchase was, in fact, a "first sale" purchase, that Sun's and Anglo's purchases in which the product was obtained in the United States would be eligible for a refund in the Texaco proceeding. Consequently, the DOE approved refunds for the applicants.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Crude Oil Supplemental Refund Distribution, RB272-25, 09/05/95

Crude Oil Supplemental Refund Distribution, RB272-45, 09/06/95

Crude Oil Supplemental Refund Distribution, RB272-18, 09/08/95

Crude Oil Supplemental Refund Distribution, RB272-50, 09/08/95

Texaco Inc./R.W. Dickman Company, Inc., RR321-0116, 09/05/95

Dismissals

The following submissions were dismissed:

Name and Case No.

Albuquerque Operations Office; VSO-0047

Craig Investments, Inc.; RF304-15177

Jacob's Fuel Oil Service; RF300-21559

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